

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JOHN OCHOA,  
Plaintiff,

v.

MERCK & CO., INC., *et al.*,  
Defendants.

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CIVIL ACTION NO. H-05-4367

**ORDER**

This case is before the Court on Defendant Merck & Co., Inc.’s (“Merck’s”) Motion to Stay All Proceedings Pending Transfer Decision by the Judicial Panel on Multidistrict Litigation<sup>1</sup> [Doc. # 4], to which Plaintiff John Ochoa and co-Defendant Ankur Sarkar filed Responses [Docs. # 5 and # 10], and Merck filed a Reply [Doc. # 13]. Ochoa argues that the case should be remanded rather than stayed, and Dr. Sarkar argues that Plaintiff’s claims against him involve discovery and other issues different from those in the Vioxx litigation.

There are a large number of cases in the Vioxx litigation that involve prescribing physicians and other health care providers similar to Dr. Sarkar, and a motion to remand is pending in many of those cases. Recognizing that such a situation would


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<sup>1</sup> This case has been identified as a tag-along case in *In re Vioxx Products Liability Litigation*, MDL No. 1657 (“the Vioxx litigation”), pending in the United States District Court for the Eastern District of Louisiana.

exist, the Judicial Panel on Multidistrict Litigation noted specifically that “motions to remand . . . can be presented to and decided by the transferee judge.” *See In re Vioxx Prods. Liab. Litig.*, 360 F. Supp. 2d 1352, 1354 (J.P.M.L. 2005). As a result, the Court concludes that a stay of this case, including Plaintiff’s pending Motion to Remand [Doc. # 6], is appropriate and will not prejudice the rights of any party to this lawsuit. Accordingly, it is hereby

**ORDERED** that Merck’s Motion to Stay All Proceedings Pending Transfer Decision by the Judicial Panel on Multidistrict Litigation [Doc. # 4] is **GRANTED** and this case is **STAYED AND ADMINISTRATIVELY CLOSED** pending its transfer to MDL 1657.

SIGNED at Houston, Texas, this **3rd** day of **February, 2006**.

  
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Nancy F. Atlas  
United States District Judge